

PT 96-17  
Tax Type: PROPERTY TAX  
Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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GRACE BIBLE CHURCH	)		
Applicant	)		
	)	Docket #	94-22-185
v.	)		
	)	Parcel Index	#06-11-118-007
THE DEPARTMENT OF REVENUE	)		
OF THE STATE OF ILLINOIS	)		

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RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Jeffrey S. McCutchan appeared on behalf of Grace Bible Church (hereinafter referred to as the "applicant").

Synopsis:

The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on March 26, 1996 to determine whether or not DuPage County parcel number 06-11-118-007 and the residence located thereon should be exempt from real estate tax for the 1994 assessment year.

Mr. Randy Proctor, treasurer of the applicant, testified on behalf of the applicant.

The issues in this matter include first, whether the applicant owned this parcel and the residence located thereon during the 1994 assessment year. The second issue is whether the applicant is a religious organization. The last issue is whether this parcel and the residence located thereon qualified as a parsonage during the 1994 assessment year or whether this parcel and the residence thereon were leased or otherwise used with a view to profit during that year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned this parcel during the entire 1994 assessment year. It is also determined that the applicant is a religious

organization. Finally, it is determined that the applicant leased this parcel and the residence thereon with a view to profit during the 1994 assessment year.

Findings of Fact:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that the parcel here in issue and the residence thereon, did not qualify for exemption for the 1994 assessment year, was established by the admission in evidence of Department's Exhibits 1 through 5B.

2. On July 1, 1994, the DuPage County Board of Review forwarded an Application for Property Tax Exemption To Board of Review, concerning this parcel for the 1994 assessment year. (Dept. Ex. No. 1)

3. On December 22, 1994, the Department notified the applicant that it was denying the exemption of the parcel here in issue and the residence thereon, for the 1994 assessment year. (Dept. Ex. No. 2)

4. The applicant then requested a formal hearing in this matter. (Dept. Ex. No. 3)

5. The hearing held in this matter on March 26, 1996, was held pursuant to that request.

6. The applicant acquired this parcel pursuant to a trustee's deed dated September 24, 1990. (Dept. Ex. No. 1D)

7. During the calendar year 1994, the residence on this parcel was occupied by Tom Crane, his wife, Tiffany Crane, and their son, Sean Crane. (Tr. p. 12)

8. During 1994 Tom Crane was the part time youth pastor at the applicant. Mr. Crane spent about 20 hours per week in preparing for and conducting church activities during that year. Tiffany Crane also performed services for the applicant in that she assisted in the youth ministry for the church and was also employed as a church janitor. (Tr. p. 24)

9. The Cranes occupied the house on this parcel, pursuant to a lease dated September 1, 1993, during the period January 1, 1994 through August 31, 1994. (Appl. Ex. No. 1)

10. The lease provided that the applicant shall deduct the \$400.00 monthly rent in advance from Tom Crane's pay. The lease also provided that Tom and Tiffany were required to pay all utilities, including water, sewer, gas, and electricity furnished to the premises as well as the cost of garbage removal. (Appl. Ex. No. 1)

11. Pursuant to the lease, the applicant retained the right to use 1/2 of the garage for storage purposes. (Appl. Ex. 1)

12. The applicant also entered into an employment agreement with Tom Crane. This agreement also provided that the applicant will lease the parcel here in issue and the house thereon to Tom Crane, so long as Tom is employed by the applicant and also is a student in good standing at the Moody Bible Institute. (Appl. Ex. No. 3)

13. Tom Crane was licensed by the deacon board of the applicant to act as youth minister. (Dept. Ex. No. 4)

14. The senior minister and the assistant minister of the applicant are both ordained clergy. Neither of them are licensed by the applicant. (Tr. p. 30)

15. During the 1994 assessment year, the applicant held worship services on Sunday mornings, Sunday evenings and Wednesday evenings. (Tr. p. 31)

16. The applicant has about 250 members and an average Sunday attendance at worship services of approximately 300 persons. (Tr. p. 10)

17. Based on the foregoing, I find that the applicant owned this parcel and the residence thereon during the entire 1994 assessment year.

18. I also find that the applicant is a religious organization.

19. Finally, I find that except for 1/2 of the garage which was retained by the applicant, this parcel and the residence thereon were leased for profit during the 1994 assessment year.

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-40 provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes,...and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches...and used in conjunction therewith as housing facilities provided for ministers...their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations,...where persons engaged in religious activities reside.

A parsonage,...shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

It is clear from reading the residential lease and also the employment agreement between the applicant and Tom Crane, that Mr. Crane, during the 1994 assessment year was a student and that the applicant, in exchange for certain

part time services, was willing to lease him a residence for that year. Since Mr. Crane was still a student he was licensed by the applicant. The senior minister and the assistant minister of the applicant were not licensed by the deacon board of the applicant since they were ordained clergy.

It should be noted that the Illinois Courts have consistently held that the use of property to produce income is not an exempt use, even though the net income is used for exempt purposes. People ex rel. Baldwin v. Jessamine Withers Home, 312 Ill. 136 (1924). See also The Salvation Army v. Department of Revenue, 170 Ill.App.3d 336 (2nd Dist. (1988), leave to appeal denied. It should also be noted that if property, however owned, is let for return, it is used for profit, and so far as its liability for taxes is concerned, it is immaterial whether the owner makes a profit, or sustains a loss. Turnverein "Lincoln" v. Board of Appeals, 358 Ill. 135 (1934). Consequently, based on the fact that the applicant entered into a residential lease with Mr. and Mrs. Crane and that the lease also required that they pay for all utilities and services, I conclude that this parcel and the residence thereon as well as 1/2 of the garage were either leased or otherwise used for profit by the applicant during the 1994 assessment year.

I therefore recommend that DuPage County parcel No. 06-11-118-007 remain on the tax rolls for the 1994 assessment year, except for 1/2 of the garage and 1/2 the land on which the garage is located. I further recommend that said parcel and the improvements thereon, except for 1/2 the garage and 1/2 the land on which it was located, be assessed to the applicant, the owner thereof, for the 1994 assessment year.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
July ,1996